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E.O. 12958: DECL: 02/25/2018

TAGS: PGOV PHUM PREL KDEM TH

SUBJECT: ELECTION COMMISSION REFERS HIGH-PROFILE FRAUD CASE
TO SUPREME COURT

REF: A. BANGKOK 598 (ELECTION FRAUD INVESTIGATIONS)
1B. 07 BANGKOK 5041 (ELECTION LAWS)

Classified By: Ambassador Eric G. John, reason 1.4 (b) and (d).

11. (C) SUMMARY: The ECT will petition the Supreme Court to red-card House Speaker Yongyuth for election fraud. The ECT 3-2 decision today may indicate that the evidence against Yongyuth is not very strong -- or it may be a sign that some of the commissioners are reluctant to oppose the PPP. A well-placed embassy contact believes that the courts will not/not dissolve the ruling People's Power Party (PPP) as a result of this case. The Supreme Court will be under intense scrutiny from both sides, which should help it to maintain its impartiality. END SUMMARY.

12. (C) The Election Commission of Thailand (ECT) decided on February 26 to refer the vote fraud case against House Speaker Yongyuth Tiyapairat to the Supreme Court. The ECT, by a 3-2 vote, endorsed the findings of the investigative subcommittee, and will petition the Supreme Court's Election Fraud Department to void Yongyuth's election to the Parliament. If the Supreme Court accepts the case, Yongyuth will be suspended as House Speaker until the case is decided.

This would likely take several weeks. If the Supreme Court red-cards Yongyuth, he will lose his seat and face a five-year ban from running for office again. As Yongyuth was a candidate on the party list, if he is disqualified, we believe that his seat will be taken by the next candidate on the PPP party list, thus leaving PPP still with 233 seats in the Parliament.

13. (C) As reported previously (ref A), since Yongyuth was on the executive committee of the PPP when the alleged fraud occurred, the ECT will have to determine whether to refer the case to the Constitutional Court for possible dissolution of the party. Ambassador briefly discussed the case today with a prominent member of the former ruling Thai Rak Thai (TRT), former Foreign Minister Pongphol Adirekson. Pongphol told the Ambassador that he anticipated the Supreme Court would decide on the red card in about two weeks. He added that he found it "unimaginable" that the Constitutional Court would subsequently dissolve the PPP; he also said he did not believe that this was how the drafters intended the law be enforced.

BAD DAY FOR THE FAMILY

¶4. (SBU) The ECT also recommended a yellow card be issued to Yongyuth's sister, who won a seat in the family's Chiang Rai province stronghold as a People's Power Party constituency candidate. This case should also be referred to the Supreme Court for adjudication, as we understand the law. If a yellow card is issued, there will be a new vote for the seat, but the sister will be able to run in the by-election, and is likely to win again.

COMMENT

¶5. (C) The ECT's split vote may signal that the evidence in the case is not very strong -- or it may be a sign that some of the commissioners are reluctant to take on the PPP. In any case, the hot potato has been thrown to the Supreme Court. PM Samak has generally praised the ECT for its conduct of the elections, but has recently railed against the "invisible hand" allegedly behind this fraud investigation. (This is a likely reference to interference by Privy Council President General Prem, Samak's bête noire.) With the case being reviewed by the Supreme Court, and carefully monitored by the ruling party and the press, the evidence should undergo rigorous examination. Even an "invisible hand" from the anti-Thaksin forces is unlikely to be able to suborn an unreasonable verdict.

JOHN